IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.8522 of 2014(O&M)

Date of decision:11.7.2016

National Insurance Co. Ltd. ….Appellant

VERSUS

Neeru and others .....Respondents

*****

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.C. Kapoor, Advocate for the appellant.

Ms. Richa Mittal, Advocate for
Mr. Inderjit Sharma, Advocate for respondents No.1 and 2.

*****

REKHA MITTAL, J.

The present appeal lays challenge to award dated 01.07.2014 passed by the Motor Accident Claims Tribunal, Panchkula (for brevity 'Tribunal') whereby the respondents/claimants have been awarded compensation to the tune of Rs.32,85,000/- in respect of death of Rohit Sharma in a motor vehicular accident on 20.05.2012.

The learned Tribunal assessed income of the deceased at Rs.15,000/- per month; allowed increase in income to the extent of 50% towards future prospects; adopted a multiplier of 17 and deducted $1/3^{rd}$ towards personal expenses of the deceased and an amount of Rs.30,60,000/- was assessed for loss of dependency. The compensation was also awarded under conventional heads making a total sum of Rs.32,85,000/-, noticed hereinbefore.

Counsel for the appellant would contend that income of the deceased assessed by the learned Tribunal is not based upon any materials on record , therefore, there is no justification to allow compensation by considering income at Rs.15,000/-. Another submission made by counsel is that as question with regard to entitlement of the respondents to benefit of increase in income for future prospects is pending consideration before a Larger Bench in view of reference made in National Insurance Company Ltd. Vs. Pushpa, SLP (C) No.16735 of 2014, decided on 02.07.2014 and in view of the observations made by Hon'ble the Apex Court in Shashikala and others Vs. Gangalakshmamma & another, 2015 ACJ 1239, either benefit of increase in income for future prospects may be withdrawn or the amount payable towards the said benefit may be allowed to be released subject to furnishing of adequate security in order to ensure that in case the judgment passed in Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170, is varied or set aside and the judgment Reshma Kumari and others Vs. Madan Mohan and another, 2013 ACJ 1253 is affirmed, the appellant would be entitled to recover the excess amount without any difficulty.

Counsel for the respondents/claimants has supported the award passed by the Tribunal with the submissions that findings with regard to assessment of income of the deceased are based upon evidence of two witnesses i.e. Jitender Kumar (PW-6) and Preet Mohan Singh (PW-7), therefore, no interference by the Court is warranted. Further dilating, it is argued that unless the assessment made by the Tribunal is held to be arbitrary or whimsical, there is no reason for the Court of appeal to differ with the findings recorded by the learned Tribunal.

So far as the plea that either the respondents are not entitled to benefit of increase in income or the said amount is liable to be released subject to furnishing of security, it is argued that till the judgment in Rajesh's case (supra) is set aside by a Larger Bench, the same would hold the field for allowing benefit of future prospects.

I have heard counsel for the parties, perused the paper-book particularly the award passed by the Tribunal.

Before adverting to the submissions made by counsel for the parties, it is appropriate to recapitulate that the legislation has imposed a pious obligation upon the Tribunal to assess just and reasonable compensation. "Just compensation" is adequate compensation which is fair and equitable on the facts and circumstances of the case to make good the loss suffered as a result of the wrong, as far as money can do so by applying the well settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or the source of profit as has been laid down by Hon'ble the Supreme Court in Smt. Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77. It has further been held that assessment of compensation though involving certain hypothetical considerations, should nevertheless be objective while it may not be possible to have mathematical precision or identical awards in assessing compensation. Consistency and uniformity and not divergence and freakiness should be the result of adjudication to arrive at just compensation.

This brings the Court to the plea whether income of the deceased assessed by the Tribunal can be termed as unreasonable or unjust. There is no denial that the deceased was running his own business of shocker repairs. It has been proved, in view of testimony of PW-6 that the deceased was paying Rs.3,000/- per month as rental of the shop and used to purchase items worth Rs.4,000-5000 per month for repair of shockers. Keeping in view rental value of the shop in which the deceased was running his business coupled with value of the items purchased per month for carrying on the business, I find it difficult to hold that income assessed by the Tribunal is unreasonable much less unjust or allowing compensation by assessing income at Rs.15,000/- per month, in the circumstances of the present case, would amount to bonanza or source of profit for the respondents/claimants.

So far as plea with regard to grant of benefit towards future prospects, till the judgment passed in Rajesh's case (supra) is varied or set aside in appropriate proceedings by Hon'ble the Apex Court, the respondents cannot be denied the said benefit nor there is any reason to allow release of such benefit subject to furnishing of surety/security particularly when the Court is finally disposing of the appeal.

In view of the above, there is no error much less illegality committed by the learned Tribunal warranting interference by this Court.

For the foregoing reasons, the appeal fails and is accordingly dismissed. Award passed by the learned Tribunal is affirmed.

No order as to costs.

JULY 11, 2016 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**